UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI EASTERN DIVISION

LISA DEAN,)	
Plaintiff,)	
vs.)	Case No. 4:02CV01833 ERW
AMERICAN HOME PRODUCTS)	
CORPORATION, et al. Defendant.)	
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MEMORANDUM AND ORDER

This matter comes before the Court upon Plaintiff's Motion to Consolidate [doc. #53].

The Court heard arguments from the parties on Plaintiff's Motion during a telephone conference on June 26, 2007.

In the Motion, Plaintiff contends that efficiency and judicial economy would be furthered by consolidating *Mable Gillespie*, *individually and as administrator of the estate of Victoria Hill v. American Home Products* (Case No. 4:03CV01526 JAH) into this case, for trial, because the cases involve common questions of both law and fact related to Defendant's general liability. Defendant responds that consolidation of the two actions is inappropriate because the cases involve very different, complex facts and would be unfairly prejudicial to Defendant.

Federal Rule of Civil Procedure 42(a), which governs consolidation, states:

When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unecessary costs or delay.

Fed. R. Civ. P. 42(a). The Court has broad discretion in ordering the consolidation of matters,

but that discretion is not unbounded. Enterprise Bank v. Saettele, 21 F.3d 233, 235 (8th Cir.

1994). The Court must determine whether the two proceedings involve a common party and

common issues of fact or law. *Id.* (internal citations and quotations omitted).

After considering the parties arguments, the Court will deny Plaintiff's Motion. While the

instant case and Hill share some common questions of law, the Court agrees with Defendant's

argument, that the two cases present significantly different issues of fact. Notably, the Plaintiffs

took the diet drugs at issue at two different time periods and have different medical histories.

Further, the state law applicable to the two actions differ (West Virginia law applies in the *Dean*

case, while Missouri law applies in the Hill case) and involves different legal standards. In short,

the Court concludes the two actions present different questions of law and fact and Plaintiff has

not persuaded the Court that considerations of convenience and judicial economy require

consolidation.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Motion to Consolidate [doc. #53] is

DENIED.

Dated this <u>28th</u> day of June, 2007.

E. RICHARD WEBBER

UNITED STATES DISTRICT JUDGE

E. Behard Hahlen

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